

HOUSE BILL REPORT

HB 1086

As Reported by House Committee On:
Technology, Energy & Communications

Title: An act relating to requiring certain providers of electric service to purchase electricity from eligible distributed generators.

Brief Description: Requiring certain providers of electric service to purchase electricity from eligible distributed generators.

Sponsors: Representatives McCoy, Chase, Hudgins and Morris.

Brief History:

Committee Activity:

Technology, Energy & Communications: 1/28/09, 2/18/09 [DPS].

Brief Summary of Substitute Bill

- Requires qualifying utilities to interconnect an eligible distributed generator to the utility's distribution system within six months after adoption by the Legislature of power purchase agreement rates.
- Directs the Department of Community, Trade and Economic Development to develop, in consultation with the Utilities and Transportation Commission (UTC), power purchase agreement rates for certain renewable resources and make recommendations to the Legislature on appropriate power purchase agreement rates.
- Requires the governing board of a consumer-owned utility and the UTC to develop power purchase contracts, review distributed generation rates, and make adjustments to those rates as necessary.

HOUSE COMMITTEE ON TECHNOLOGY, ENERGY & COMMUNICATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives McCoy, Chair; Eddy, Vice Chair; Carlyle, Finn, Hasegawa, Hudgins, Jacks, Morris, Takko and Van De Wege.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: Without recommendation. Signed by 6 members: Representatives Crouse, Ranking Minority Member; Haler, Assistant Ranking Minority Member; Condotta, Herrera, Hinkle and McCune.

Staff: Scott Richards (786-7156)

Background:

Distributed Generation.

Distributed generation, also called on-site generation, commonly refers to small-scale power generation technologies located close to where the electricity is used.

Feed-in Tariffs.

A feed-in tariff offers a fixed-price contract over a term with specified operating conditions to eligible renewable energy generators. Feed-in tariffs can be either an all-inclusive rate or a fixed premium payment on top of the prevailing spot market price for power. The price paid represents estimates of either the cost or the value of renewable generation. The tariff is generally offered by the interconnecting utility and sets a standing price for each category of eligible renewable generators. Tariffs are often differentiated based on technology type, resource quality, or project size, and may decline on a set schedule over time.

Cost-Recovery Incentive Program for Renewable Energy Systems.

In 2005 the Legislature created a cost-recovery incentive program (program) to promote renewable energy systems that produce electricity from solar, wind, or anaerobic digesters. An individual, business, or local government purchasing an eligible system may apply for an incentive payment from the electric utility serving the applicant. The incentive provides at least 15 cents for each kilowatt-hour of energy produced, with extra incentives for solar, wind, or anaerobic digester systems that use components manufactured in Washington. Extra incentives are also available for wind energy. Payments are capped at \$2,000 annually per applicant.

Electric utilities may provide incentive payments under this program to a customer-generator, but are not required to do so. A utility providing incentive payments is allowed a credit against its public utility tax (PUT) for incentives paid, limited to \$25,000, or 0.25 percent of its taxable power sales, whichever is greater.

The program expires June 30, 2015.

Summary of Substitute Bill:

Purchase of Distributed Generation.

The Department of Community, Trade and Economic Development (Department), in consultation with the Utilities and Transportation Commission (UTC), is directed to develop and submit to the Legislature by December 1, 2009, recommendations regarding an appropriate power purchase agreement rate structure. The Department's recommendations

must include rates for: solar electric and solar thermal, off-shore and on-shore wind, wave, tidal, biomass, biogas, geothermal, and hydropower.

A qualifying utility must interconnect an eligible distributed generator to the utility's distribution system, beginning six months after the effective date of legislation, implementing power purchase agreement rates. If the qualifying utility refuses to connect an eligible distributed generator to the utility's distribution system, the qualifying utility is subject to a fine of up to \$100 a day. The costs associated with the interconnection of eligible distributed generators must be included in the non-bypassable surcharge that is paid by every customer of either an investor-owned utility or a customer-owned utility.

Qualifying utilities must enter into at least a 20-year power purchase agreement with an eligible distributed generator to purchase all electricity from the eligible distributed generator.

An eligible distributed generator must include, at the owner's expense, equipment necessary to meet certain national requirements relating to safety, power quality, and interconnection standards. The UTC and the governing boards of customer-owned utilities are permitted to adopt additional safety, power quality, and interconnection requirements for eligible distributed generators to protect public safety and system reliability.

The owner of the eligible distributed generator may not enter into a power purchase agreement with a qualifying utility if the owner is participating in the program or in the net metering program.

Administration.

The UTC or the governing board of a consumer-owned utility (COU) must annually approve a distributed generation factor as a non-bypassable surcharge payable by every customer of the investor-owned or COU, regardless of customer class. The surcharge must cover the cost of the electricity and any interconnection costs.

The UTC or the governing boards of the COU's must develop a standard contract to be used in all power purchase agreements for distributed generation. A standard contract developed by the UTC and governing boards must be designed to provide for graduated payments over the 20-year term of the contract for electricity supplied by eligible distributed generators. The graduated payments must be reduced over the 20-year term of the contract, equaling \$0 for the last payment of the contract.

The UTC or governing board of the COU must review the power purchase agreement rates specified in this act every two years, and adjust those rates as necessary to: (1) account for inflation; (2) assist in the profitable development of distributed generators; (3) prevent excessive profits for distributed generators; and (4) prevent unnecessary costs to ratepayers. The UTC or governing board of the COU must reduce the power purchase agreement rates to reflect any federal or state subsidies, tax credits, or other incentives that an eligible distributed generator is receiving.

Reporting.

Within two years after the effective date of legislation that implements power purchase agreement rates, the UTC and the Department shall report to the Governor and the Legislature, and every four years thereafter: (1) the number of new eligible distributed generators in the state, including the environmental effects of those generators; (2) recommended legislation and changes to the distributed generation rates; and (3) implementation actions taken by the UTC or the COU's.

Definitions.

"Distributed generation" means a renewable resource in which the generation facility or cluster of facilities has a generating capacity of five megawatts or less.

"Eligible distributed generator" means the distributed generation located on the premises of an individual, business, or local government, but it does not include distributed generation by an individual, business, or local government in the electricity or gas distribution business.

"Renewable resource" means water, wind, solar, geothermal, landfill or sewage treatment facility gas, wave, ocean, or tidal power. Renewable resource also includes biodiesel fuel not derived from old growth forests, byproducts of pulping or wood manufacturing, black liquors, and biomass energy, except for wood pieces that are treated with chemical preservatives or derived from old growth forests or municipal solid waste.

"Small wind turbine" means any wind turbine with a rotor blade swept area of no more than 2,000 square feet.

"Qualifying utility" means an electric utility serving more than 25,000 customers in Washington.

Substitute Bill Compared to Original Bill:

The substitute bill removes the power purchase agreement rate structure and directs the Department of Community, Trade and Economic Development (Department), in consultation with the Utilities and Transportation Commission (UTC), to develop and make recommendations to the Legislature on the appropriate power purchase agreement rate structure. The Department's recommendations must include rates for: solar electric and solar thermal, off-shore and on-shore wind, wave, tidal, biomass, biogas, geothermal, and hydropower.

The requirement for a qualifying utility to interconnect an eligible distributed generator to the utility's distribution system is modified to begin six months after the effective date of legislation implementing power purchase agreement rates.

Safety, power quality, and interconnection requirements are added. An eligible distributed generator must include, at the owner's expense, equipment necessary to meet certain national requirements relating to safety, power quality, and interconnection standards. The UTC and the governing boards of customer-owned utilities are permitted to adopt additional safety, power quality, and interconnection requirements for eligible distributed generators to protect public safety and system reliability.

The standard contract provisions are modified to direct the UTC and the governing boards to develop a standard contract that provides for graduated payments over the 20-year term of the contract for electricity supplied by eligible distributed generators.

Modifies the definition of "renewable resources" to remove the prohibition against biodiesel fuel being derived from crops raised on land cleared from first growth forests.

Definition of "average specific yield" is removed.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Washington needs another tool to bring more alternative energy projects to our state. The policy in this bill is a fascinating tool that Germany has successfully used to bring renewable energy projects on line. Concerns about this bill can be worked out. This legislation will bring green jobs to our economy. The U.S. Department of Energy has identified numerous benefits to distributed generation besides clean air. Incentives and proper interconnection rules can allow distributed generation to be safely integrated, create green jobs, and ensure reliable energy delivery. Incentives for on-site generation will allow more citizens to take part in selling clean power back to grid.

(With concerns) The Technology, Energy and Communications (TEC) Committee may not want to look at the German model for Washington. They have a deregulated electricity system and Washington's is not. The TEC committee should consider a declining or graduated payment structure. Unlike the German model, this bill does not have a decline payment rate. It increases over time. The initial tariffs are quite high. The rates need to be adapted to Washington.

Distributed generators should have to decide whether they would participate in net metering or the feed-in tariff, but not both. It might be beneficial to include utilities in the definition of distributed generator so that they can benefit too. The 60-day timeline for interconnection has potential consequences for electric utilities. Many utilities would not be able to meet that timeline. The time needed to interconnect a system depends on the size of the system being installed.

Feed-in tariffs are a very efficient way to develop renewable energy. However, a feed-in tariff may prompt out-of-state and out-of-country manufacturers, with products produced using fossil fuels, to flood Washington's market at the expense of in-state manufacturers whose electricity comes from clean, low-carbon electricity.

Washington's net metering law takes into account the unique situation of electrical cooperatives with long feeders with very few service drops. The net metering law allows electrical utilities to take into consideration and limit, based on safety and reliability issues, the placement of a net metering system, so that electric distribution isn't interrupted. This issue needs to be recognized in this bill.

There are concerns about the prices reflected in the bill. The cost for the electricity from these systems may be 10 times higher than the cost of power currently under contract with the electrical cooperatives.

There are three concerns that the UTC has with this bill. First, setting tariff rates in statute is problematic. For example, solar electric unit prices and other materials change dramatically. Set rates in statute may not be flexible enough to keep up with market dynamics. Second, the bill allows the UTC to change rates set in law, but the basis for those changes are beyond the authority of the UTC. Finally, rates for other customers will increase above current practice and will have a rate impact.

There are no load limits in the bill. It may be the best approach to extend existing sales and use tax incentives for renewable energy systems.

(Opposed) None.

Persons Testifying: (In support) Representative McCoy, prime sponsor; Collins Sprague, Avista Corporation; and Chuck Collins, Cascade Power.

(With concerns) Ken Johnson, Puget Sound Energy; Gary Shavr, Silicon Energy; Kent Lopez, Washington Rural Electric Cooperative Association; Steve Johnson, Washington Utilities and Transportation Commission; and Kathleen Collins, PacifiCorp.

Persons Signed In To Testify But Not Testifying: None.